

# MAINE STATE LEGISLATURE

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# RESOLVES,

*Of the General Court of Massachusetts,*

PASSED AT THE SESSION BEGAN AND HELD, AT BOSTON, ON

THE NINTH OF NOVEMBER,

*IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED*

*AND EIGHT.*

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## GOVERNOUR'S MESSAGE.

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NOVEMBER 10.

*About 4 o'clock, P. M. the Secretary communicated respectively to  
the Senate and House the following*

## MESSAGE :

GENTLEMEN OF THE SENATE, AND

GENTLEMEN OF THE HOUSE OF REPRESENTATIVES,

THE Secretary of the Commonwealth has, by your direction, informed me, that a quorum of the Senate and House of Representatives have assembled, and are ready to proceed to the publick business of the Commonwealth pursuant to the design of their adjournment. I congratulate the people of the State upon the assembling in health and safety of so many of their Representatives. It would have given me inexpressible pleasure, if, when I had met you, I could have offered my congratulations on a happy situation of our foreign relations ; but as that cannot be, in our present state, it is therefore not my duty to concern with them, and I shall therefore leave the subject to the Representatives of the people in the national government.

GENTLEMEN OF THE SENATE, AND

GENTLEMEN OF THE HOUSE OF REPRESENTATIVES,

The adjournment which took place on the 11th day of June last, was made from that day to this at your request, for the special purpose of choosing Electors of President and Vice-President, as

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well as for transacting any other business which might become necessary at this time. From this mode of expression it has been conceived by many that the Senate and House intended to proceed in convention to the choice of Electors themselves, in their Legislative capacity, as appears by the Resolutions of the inhabitants of many towns in the Commonwealth ; with all, or the greatest part of which, you are, no doubt, already acquainted. I think it my duty to suggest to you, that a choice by the people at large or in Districts might have a tendency to obviate those objections, which, otherwise may leave the State involved in uneasiness and contention ; and from my acquaintance with the local situation of the Commonwealth, I think the time now remaining, if candidly and properly improved, will be sufficient for that purpose. I therefore request your attention to a question of so much importance to the harmony of the Government ; and I shall make every exertion in my power to effect an object so desirable.

GENTLEMEN,

The state of the Treasury with some unfortunate circumstances, which have lately appeared to attach themselves to it, shall be communicated to you by special message, and explained by special documents. Other documents concerning the Government, shall be laid before you, as occasion shall offer ; and my attention shall be devoted to render the session agreeable to your Constituents, and pleasant to yourselves.

*November 9.*

*JAMES SULLIVAN.*

## ANSWER OF THE HOUSE OF REPRESENTATIVES.

MAY IT PLEASE YOUR EXCELLENCY.

**T**HE House of Representatives reciprocate the sentiments and feelings of your Excellency at the assembling of so many of the members of the Legislature in health and safety.—But this pleasure is mingled with our sincere regret, that the indisposition of your Excellency prevents the usual and interesting Convention of the Legislative and Executive Departments of the Government, and a personal communication from your Excellency on our national concerns, in which we all feel a common interest.

We regret that we cannot at this time indulge in mutual congratulations on the happy situation of our foreign relations and domestick concerns. But, from whatever source our evils originate, we feel assured that the hopes and pursuits of a just, enlightened and brave people, will never be disappointed; and we trust that our national and personal rights may yet be rescued, and secured from all assaults and intrigues, by a recurrence to an impartial and independent system of policy, a wise use of our publick means and especially by the immediate establishment of an effective Navy and the natural direction of our national energies.

As we consider a strict observance of the limits of the various powers granted or secured to the Governments of the United States and of the several States, indispensably necessary to our national happiness and peace we readily relinquish the administration of the concerns of the Union, and especially of our Foreign Relations, to the Federal Government. With this disposition we, at the same time, feel it equally our duty to guard with vigilance and preserve inviolate the principle essential to the independence and sovereignty of the individual States, that all powers not delegated to the United States, by the Federal Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People.

As the Legislature has convened at this time rather for the special purpose of choosing Electors of President and Vice-President of the United States, than transacting the ordinary business of legislation, the chief and important object of the session will receive, as it demands, our most serious attention.—We are sensible of the magnitude of the trust committed to us by the Federal Con-

stitution, in its assignment to the Legislature of the State the exclusive right and power of directing the mode of appointing Electors. With the regard due to the suggestions of your Excellency, and a just sense of our own responsibility, we shall endeavor to discharge this duty in such a manner as will accord with the opinions and wishes of our constituents and promote the peace and happiness of our common country.

It is a source of deep regret that any unfortunate circumstances should have attached themselves to the Treasury of the Commonwealth. As taxes are laid, and levied by the assent of the People for the necessary support and defence of the Commonwealth, and for the preservation and protection of its inhabitants, a mismanagement of our fiscal affairs, and the unconstitutional application of the publick money to other than the publick use, affect us with the most serious concern.—They tend at once to disturb the tranquillity of every citizen, and to put in jeopardy all our private rights and national blessings. It however affords much satisfaction that every thing which patriotism could prompt or duty warrant has been done to secure us against the various injuries which might have resulted from the unfortunate circumstance to which your Excellency alludes.—Our particular attention will be directed to the communications of your Excellency on this subject.

In the transaction of any publick business which may be our joint and common charge, with our endeavours to promote the welfare of our constituents, we shall study to make as easy and light as possible the weighty cares of your important office.

We cannot conclude without expressions of our personal respect for your Excellency, and an assurance of our sincere wishes for the continuance of your life to your friends and country.

MAY IT PLEASE YOUR EXCELLENCY,

THE Senate acknowledge with gratitude the Divine goodness which has permitted them to convene in health and safety, and proceed to perform the important duties now devolved upon them. They rejoice that the health of your Excellency has been continued, so that you are enabled to aid in conducting the concerns of the Commonwealth, and they earnestly beseech the Author and Preserver of all beings that your life may be prolonged, and that your fellow citizens may derive great benefit from your administration.

We view with deep regret the unhappy situation of our foreign relations. Having during the last session, expressed our sentiments on the measures of the National Government affecting those relations, we indulge the hope that the Representatives of the people in Congress will immediately devise and adopt measures to relieve their constituents from existing embarrassments.

In prescribing the mode of appointing Electors of President and Vice-President of the United States, the Senate have been influenced by a most sincere regard for the great interests of Massachusetts. While adopting a course of executing this high trust, heretofore used in this Commonwealth, and at the present moment practised by many sister States, they feel much satisfaction in the confident belief that they shall have the support and approbation of the great body of their constituents.

The deficiency in the Treasury, arising from an unjustifiable and unprecedented abuse of the confidence necessarily reposed in the late Treasurer, has excited unusual uneasiness and alarm among the citizens of this Commonwealth. Such events are to be deplored, not merely as means by which the coffers of the State may have been robbed of their contents by a sworn publick agent, but as an example of corruption by which the rapacity of ambitious and unprincipled demagogues may be hereafter excited. We shall direct our early and diligent attention to such documents relating to this subject, as you may deem it expedient to lay before us.

As our assembling at this time was more especially for the purpose of appointing Electors of President and Vice-President of the United States, it was our expectation that the present session would be limited to a few days. Such other communications as your Excellency shall think proper to make, we shall receive with respect, and cordially co-operate in accomplishing any business necessary to be transacted at this time to promote the happiness and welfare of our constituents.





# RESOLVES.

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## CCX.

*Resolve for repealing a Resolve of March 2d, last, instructing the Senators and Representatives in Congress to procure an amendment to the Constitution of the United States. Nov. 14, 1808.*

WHEREAS, it is essential to the administration of Justice, and to a preservation of the principles of the Constitution of the United States, that the Judges of the Court of the United States, be, and remain independent, according to the provisions of said Constitution.

*Therefore be it Resolved,* That the said resolve passed on the said second day of March in the year of our Lord one thousand eight hundred and eight, entitled a resolve instructing the Senators and Representatives of this State in Congress, to endeavour to procure an amendment to the Constitution of the United States, be, and hereby is repealed, and the instruction therein contained is revoked and annulled.

*And be it further resolved,* That the Governour be, and he is hereby requested to transmit a copy of this Resolution to each of the Senators and Representatives from this Commonwealth in the Congress of the United States, and also, to the Governour of the State of Vermont, to be laid before the General assembly of that State.

## CCXI.

*Resolve directing the Treasurer of the Commonwealth to take measures to recover a debt due from Oliver Phelps, Esq. Nov. 15, 1808.*

The Committee of both Houses to whom was referred the Treasurer's communication respecting a demand the Commonwealth has against Oliver Phelps, Esq. having attended that business—ask leave to report the following Resolve, which is submitted.

ENOCH TITCOMB, *per order.*

*Resolved*, That the Treasurer of the Commonwealth be, and hereby is directed to take such further measures for the recovery and payment of a debt due to the Commonwealth from Oliver Phelps, Esq. either by taking a substitute of one kind of security for another, or in any other way he shall judge will be most for the safety and interest of the Commonwealth, in expediting the payment of said debt.

## CCXII.

*Resolve granting Barnabas Bidwell, Esq. Attorney General, Three hundred dollars in addition to his salary. Nov. 16, 1808*

*Resolved*, That there be allowed and paid out of the publick treasury to Barnabas Bidwell, Esq. Attorney General, Three hundred dollars, in addition to his salary, to the first day of March, 1808.

## CCXIII.

*Resolve granting Jacob Kuhn, Two hundred dollars, to comply with orders. Nov. 17, 1808.*

*Resolved*, That there be allowed and paid out of the publick Treasury to Jacob Kuhn, Messenger of the General Court, Two hundred dollars, to enable him to comply with the several orders which have been passed during this session of the Legislature, he to be accountable for the same.

## CCXIV.

*Resolve on the petition of Mary Young. Nov. 17, 1808.*

On the petition of Mary Young, widow of James Young, jun. late of Bristol, in the county of Lincoln deceased.

Whereas, the said James Young, during his life, viz : On the fifteenth day of November, A. D. 1805, by his written agreement of that date, agreed with James Hardy and John Farr, both then of Lewistown, in said county, yeomen, to sell and convey to them the following described tracts of land in the town of Strong, in the county of Kennebeck, viz :

One tract, "being lots number three and number four, upon range number four, being one hundred rods wide each, and three hundred and twenty rods long, to contain four hundred acres more or less." The other tract, "being lot number one, upon range number four, being one hundred rods wide, and three hundred and

twenty rods long, to contain two hundred acres more or less," all of which lands the said Young was to convey to said Hardy and Tarr by deed of warranty on payment and security of the sum of Eighteen hundred dollars, as expressed in their said agreement.

And whereas the said Young died without conveying and executing the deeds of the said lands, and it would be for the benefit of the family of the said Young, that the deeds of conveyance should be executed and completed.

*Resolved*, That the said Mary Young be, and she is hereby authorized to execute and acknowledge to the said James Hardy and John Tarr, deeds of warranty, of the several lots of land aforesaid, in as full and ample a manner as could have been done by the said James Young, jun. in his life time; and the said Deeds, so executed and acknowledged, may be delivered by the said Mary Young, and shall be as valid and effectual in law, as if executed by the said James Young, jun.

## CCXV.

*Resolve granting pay to the Clerks of the two Houses. Nov. 17, 1808.*

*Resolved*, That there be allowed and paid out of the publick Treasury, One hundred and fifteen dollars to Nathaniel Coffin, Esq. Clerk of the Senate, and the like sum to Nicholas Tillinghast, Esq. Clerk of the House of Representatives, and Fifty dollars to Samuel F. M'Cleary, assistant Clerk of the Senate in full for their services for the present session.

## CCXVI.

*Resolve granting the Attorney General, one hundred and twenty dollars. November 17, 1808.*

*Resolved*, That there be allowed and paid out of the publick Treasury to Barnabas Bidwell, esq. Attorney General One hundred and twenty dollars in full for his services and expences, including assistance, in defending a certain suit brought by James Martin against Winslow Parker in the Circuit Court of the United States, in this District, for the recovery of lands, which the said Parker claims and holds by a warranty deed from this Commonwealth, and which suit has been terminated in favor of said defendant, the said services having been performed in obedience to a resolve of the Legislature of the twenty fourth day of Februry A. D. 1808.

## CCXVII.

*Resolve on the petition of Thomas Eustis, and others. Nov. 17, 1808.*

On the petition of Thomas Eustis and others, living in Holmstown plantation, in the county of Oxford, praying that their State taxes for the years 1804, 1805, 1806, 1807, and 1808, may be abated, amounting to fifty six dollars and sixty five cents, for the collection of which, there are now in the hands of the Sheriff of said county, executions for the four first years.

*Resolved*, for reasons set forth in said petition, that the prayer of said petitioners be so far granted, that said taxes be, and hereby are abated; provided said petitioners cause the amount of said taxes, in addition to their usual annual expense for roads, to be expended upon the roads in said plantation, within one year from the passing this resolve, and that the service of said executions be stayed during said year; also, that the execution for the fifth year, be stayed with the Treasurer for the same term; and in case said petitioners cause said sum of fifty six dollars, sixty five cents, to be faithfully wrought out in making and repairing the roads in said plantation as aforesaid, and certify the same to the said Sheriff and Treasurer, and pay the cost upon said executions, within said year, the Sheriff is hereby directed to return said executions satisfied, and the Treasurer to cancel the aforesaid taxes.

## CCXVIII.

*Resolved on the petition of Jonathan Munroe and Joseph Nourse. November 17, 1807.*

On the several petitions of Jonathan Munroe, and Joseph Nourse severally stating that they are seized of certain lands which had, heretofore been mortgaged to John Murray one of the persons named in an act passed against certain Conspirators, for the payment of certain sums, to the said John Murray, which mortgage money had been paid into the treasury of this Commonwealth in obedience to a certain act made and passed on the second day of March, in the year of our Lord, One thousand, seven hundred and eighty one, and that actions are brought against them respectively, for the recovery of said lands, by Daniel Murray as administrator with the Will annexed, of the said John Murray; which actions are now pending in the Circuit Court of the United States for this District, and praying for the aid and indemnity of this Commonwealth.

*Resolved*, That the Attorney General of this Commonwealth, be, and he hereby is authorized to appear in behalf of this Commonwealth in the suits now depending in the Circuit Court of the United States for this District, brought by the said Daniel Murray administrator, with the Will annexed of the said John Murray, against the said Jonathan Munroe, and against the said Joseph Nourse, for the recovery of possession of said lands, and to defend against the said suits, if he shall think it expedient, and to substitute any other persons to aid in the defence of the said suits in his stead, and to do any matter or thing thereto appertaining at his discretion.

*And be it further resolved*, That his Excellency the Governour, by and with the advice, and consent of the Honorable Council, be and is hereby authorized and requested to issue his warrant on the Treasury for such sum not exceeding three hundred dollars, as the said Attorney General shall apply for, to defray the necessary expences of any of the services hereby required, for which sum the said Attorney General is to be accountable.

## CCXIX.

*Resolve granting Sylvanus Lapham one dollar per day. November 18, 1808.*

*Resolved*, That there be allowed and paid out of the Treasury of this Commonwealth unto Sylvanus Lapham, assistant to the Messenger of the General Court, one dollar for each and every days service during the present Session, over and above his ordinary allowance.

## CCXX.

*Resolve respecting payments from Tompson J. Skinner late Treasurer and his Bondsmen. November 17, 1808.*

*Resolved*, That the Treasurer of this Commonwealth, be and hereby is authorized to receive of the bondsmen of Tompson J. Skinner late Treasurer of the Commonwealth, any sum or sums of money, which may be offered him of not less than five thousand dollars at a time, in part payment of the balance due from said Skinner as Treasurer ; and to give such receipts therefor, with condition that such payments shall not operate against any suit, or suits, which have been commenced by the Commonwealth against said Skinner, as their late Treasurer, and his Bondsmen ; or to prevent obtaining judgment thereon for the recovery of the money

due to the Commonwealth for the balance aforesaid: *Provided*, all payments be made either in specie, or Bills of the Boston Bank.

## CCXXI.

*Resolve for paying the Electors of President and Vice-President of the United States. November 17, 1808.*

*Resolved*, That there be allowed and paid out of the Treasury of the Commonwealth to the Electors of President and Vice-President of the United States, the same compensation for their travel and attendance as the members of the Legislature are entitled to receive for their travel, and attendance at the General Court.

## CCXXII.

*Resolve granting Samuel Emerson, Surgeon, One hundred dollars. Nov. 17, 1808.*

*Resolved*, That there be allowed and paid out of the Treasury of this Commonwealth, the sum of One hundred dollars to Samuel Emerson, as surgeon of the 6th Regiment, 1st Brigade, 6th Division of the Militia. *Provided* the above sum is received in full for medicine and attendance on Isaac Burnham, a private, who was wounded in returning from a military muster.

## CCXXIII.

*Resolve to pay Thomas Walcutt for extra service in the recess of the General Court. November 17. 1808.*

*Resolved*, That forty two dollars be granted and paid out of the Treasury to Thomas Walcutt in full for writing done for the House of Representatives in the recess of the Legislature, according to his account herewith exhibited.

## CCXXIV.

*Resolve on the petition of the Selectmen of Orrington. November 17, 1808.*

*Resolved*, that the Sheriff of the county of Hancock be, and he is hereby directed, to return unsatisfied, an execution issued by the Treasurer of said Commonwealth, on the seventh day of September last, against the inhabitants of the town of Orrington in

said county, for the sum of two hundred and fourteen dollars, and sixty six cents, being the proportion of that town in the state tax, for the year, eighteen hundred and six ; and that the Treasurer be, and he is hereby directed, not to issue any alias execution, for the levying of said sum, until the first day of September next. And the present Assessors of said Orrington, are hereby authorized and directed, to assess the said sum upon the inhabitants of said town, according to the rules prescribed in the tax act, passed in March, 1806 ; and to commit such assesment to the Constable or Collector of said town, together with a warrant in due form of law, directing the said sum to be paid into the Treasury, on or before the said first day of September next.

## CCXXV.

*Resolve granting three hundred dollars to the Solicitor General for expenses. November 17, 1808.*

*Resolved*, That there be, and hereby is granted to be paid out of the Treasury of the Commonwealth to the Solicitor General, such sum of money, not exceeding three hundred dollars, as may be necessary to pay the costs of prosecutions commenced, or to be commenced, against Tompson J. Skinner late Treasurer of the Commonwealth, and his Bondsmen, for recovering the deficiency of the money belonging to the Commonwealth, while said Skinner was their Treasurer. The Solicitor General to be accountable for the money he shall so receive.

## CCXXVI.

*Resolve to pay the assistant Clerk of the House of Representatives November 18, 1808.*

*Resolved*, That there be granted and paid out of the publick Treasury, fifty dollars to Thomas Walcutt in full for his servises as assistant Clerk to the House of Representatives, the present session of the Legislature.

## CCXXVII.

*Resolve granting thirty five dollars to David Smith, Representative, for travel and attendance this session. Nov. 18, 1808.*

*Resolved*. That there be allowed and paid out of the Treasury of this Commonwealth. to David Smith, Representative from Granby,

nineteen dollars for his travel, and sixteen dollars for his attendance at the present session of the General Court; and the Governour is requested to draw his warrant on the Treasury for the payment of said sums accordingly. And the Treasurer is directed to charge said sum of sixteen dollars to said town of Granby, to be added to their proportion of the next State tax.

## CCXXVIII.

*Resolve to pay Jephthah Ripley, twenty eight dollars for his pay as a Representative. Nov. 18, 1808.*

Whereas Jephthah Ripley, Member of the House of Representatives from the town of Oakham, has attended eight days during the present session, and his travel is sixty miles, amounting for his said travel and attendance, to twenty eight dollars; but by mistake, he was not borne on the pay roll, therefore

*Resolved*, That there be paid to the said Jephthah Ripley, twenty eight dollars, out of the public Treasury, in full for his said travel and attendance, at the present session of the Legislature; and his Excellency is requested to grant a warrant on the Treasury in his favour, for that sum, and the Treasurer is directed to charge the town of Oakham with sixteen dollars, part of said sum, to be added to the proportion of said town in the next State tax.

## CCXXIX.

*Resolve for raising a Company of Artillery in the town of Lynn. Nov. 18, 1808.*

On the petition of Ezra Mudge and others, praying for the establishment of a company of Artillery in the town of Lynn. *Resolved*, That the Governour with the advice and consent of council, be requested, and they are hereby authorized to establish an Artillery Company in the town of Lynn, to be raised by voluntary enrolment, within the fourth Regiment, in the second Brigade, and in the second Division of Militia of this Commonwealth, and the said Company of Artillery when raised, shall be attached to, and form a part of the Battalion of Artillery in said Division.

*Provided, however*, That no standing Company in said Regiment, shall be reduced to a less number than sixty four privates; and that none of said Company of Artillery shall be taken from any Troop of Cavalry, or Company of Light Infantry, which are established in said fourth Regiment; and that the said Company of Artillery shall be subject to all such rules, regulations, and restric-



tions, as are or may be provided by law, for the Government of the Militia of this Commonwealth.

## CCXXX.

*Resolve on petition of Samuel Palmer and Ebenezer Clifford.*  
Nov. 18, 1808.

On the petition of Samuel Palmer, and Ebenezer Clifford, inhabitants of the State of New-Hampshire.

*Resolved*, That for reasons set forth in their petition, the said Palmer and Clifford be, and they are hereby authorized to obtain at their own expense, such ordnance, and other articles, being the property of this Commonwealth, as now lays sunk in the bottom of Penobscot river, and they, the said Palmer and Clifford, shall be entitled to all property of the kind described, which they may obtain and recover in one year from this date.

## CCXXXI.

*Resolve on the petition of Joseph Stone.* Nov. 18, 1808.

On the petition of Joseph Stone, of Harvard, in the county of Worcester, praying for a prolongation of the time allowed him, by a Resolve passed March the first, A. D. 1808, for the payment of an execution which had issued against him, on his bond of recognizance, at the Supreme Judicial Court, at Worcester, for the sum of five hundred dollars, for the appearance of one Isaiah Parker.

*Resolved*, That execution be stayed for the term of one year, from the expiration of the nine months allowed to said Joseph Stone, by the resolve aforesaid: *Provided*, that such security be given to the Sheriff, who holds such execution, as he shall deem sufficient to ensure the payment thereof at that time.

## CCXXXII.

*Resolve on the petition of Benjamin Lee.* November 18, 1808.

On the petition of Benjamin Lee, of Cambridge, in the county of Middlesex, praying the Commonwealth to take on itself the defence of a certain suit, brought by Esther Sewall of Montreal, in the Province of Lower Canada, and widow of Jonathan Sewall, late Attorney General of the King of Great Britain, in the late Province of Massachusetts Bay, to recover dower in certain real estate situate in Cambridge; which estate was conveyed by this Com-

monwealth, with warranty, to Thomas Lee, deceased, under whora the said Benjamin Lee is now seized of the same estate, for his life.

*Resolved*, that the Attorney General and the Solicitor General of this Commonwealth, or either of them, be, and hereby are authorized, and required to appear on behalf of the Commonwealth, in the suit now depending between the said Esther Sewall and Benjamin Lee, and defend against the claim of said Esther Sewall, if they, or either of them, shall think it expedient.

*And be it further resolved*, That His Excellency the Governour, by and with the advice and consent of the Honourable Council, be and he hereby is authorized to issue his warrant on the Treasury, for such sum not exceeding fifty dollars as the said Attorney General or Solicitor General shall apply for, to defray the necessary expenses of any services hereby required ; for which sum, the said Attorney General, or Solicitor General receiving the same is to be accountable.

### CCXXXIII.

*Resolve granting William Tudor, Esq. Secretary of the Commonwealth, four hundred dollars for the payment of Electors of President and Vice President of the United States. Nov. 18, 1808.*

*Resolved*, There be allowed and paid out of the publick Treasury, to William Tudor, Esq. Secretary of the Commonwealth, the sum of four hundred dollars, by him to be applied to the payment of the Electors of President and Vice-President of the United States, in conformity to a resolve of the fifteenth instant : for which sum he is hereby made accountable to the General Court at their next session.

### CCXXXIV.

*Resolve for paying the Members of the Council and Legislature. Nov. 18, 1808.*

*Resolved*, That there be allowed and paid out of the Treasury of this Commonwealth, to each of the members of the Council, Senate, and House of Representatives, two dollars per day, for each days attendance, the present session, and the like sum for every ten miles travel from their respective places of abode, to the place of the sessions of the Legislature.

*And be it further resolved*, that there be paid to the President of the Senate and Speaker of the House of Representatives, each two dollars per day, for each and every days attendance, over and above their pay as members.